

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

JOAO MONTEIRO,
Plaintiff,

v.

SUSAN CORMIER, TREVOR
LEFEBVRE, DANIEL MULLEN, TINA
GONCALVES, CITY OF PAWTUCKET,
and TAMARA WONG,
Defendants.

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C.A. No. 1:21-cv-00046-MSM-LDA

DEFENDANT TAMARA WONG'S ANSWER TO PLAINTIFF'S COMPLAINT

Now comes Defendant Tamara Wong ("Ms. Wong"), in her individual capacity, and hereby answers the Complaint of the Plaintiff, Joao Monteiro, in this civil action as follows:

COMPLAINT

This unnumbered paragraph is an introductory statement to which no response is required.

INTRODUCTION

- 1.-4. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 1 – 4. Therefore, Paragraph Nos. 1-4 are denied.
- 5.-7. Ms. Wong denies the facts alleged in Paragraph Nos. 5 -7 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 5-7, and on that basis, denies them.
- 8.-9. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 8-9. Therefore, Paragraph Nos. 8-9 are denied.
10. Ms. Wong denies the facts alleged in Paragraph No. 10 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 10, and on that basis, denies them.

11. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 11, and on that basis, denies them.

JURISDICTION AND VENUE

- 12.-14. Paragraph Nos. 12 – 14 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 12 – 14 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

PARTIES

15. Ms. Wong denies the facts alleged in Paragraph No. 15 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 15, and on that basis, denies them.
16. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 16, and on that basis, denies them.
17. Ms. Wong admits that she was (and is) employed by the Rhode Island Department of Health. Ms. Wong denies the remaining facts alleged in Paragraph No. 17 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 17, and on that basis, denies them.
- 18.-20. Paragraph Nos. 18 – 20 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 18 – 20 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

FACTS

- 21.-25. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 21 – 25, and on that basis, denies them.
- 26.-27. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 26 – 27, and on that basis, denies them.
28. DNA analysis is conducted, among other things, to determine whether a particular sample contains DNA that is consistent with the DNA from another sample or from a known person(s), and not whether the DNA "match[es]" another sample or known person(s). With this understanding, the allegations in Paragraph No. 28 are denied.
29. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 29, and on that basis, denies them.

30. Ms. Wong admits that the DNA sample did not directly implicate any one person. Ms. Wong denies that the DNA sample indicated a potential connection to only one person. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 30, and on that basis, denies them.
31. Ms. Wong admits that the DNA profile could indicate a potential connection with any relative of Plaintiff's son through his paternal line. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations in the first sentence of Paragraph No. 31. Ms. Wong denies the facts alleged in the second sentence of Paragraph No. 31.
- 32.-37. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 32 – 37, and on that basis, denies them.
38. Ms. Wong admits that she was furnished with a buccal swab that was presented by investigators as having been taken from Plaintiff. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 38, and on that basis, denies them.
39. Ms. Wong denies the facts alleged in Paragraph 39 as to her own conduct and knowledge. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 39, and on that basis, denies them.
- 40.-43. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 40 – 43, and on that basis, denies them.
44. Ms. Wong denies the facts alleged in Paragraph No. 44 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 44, and on that basis, denies them.
45. Ms. Wong denies the facts alleged in Paragraph No. 45 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 45, and on that basis, denies them.
46. Ms. Wong admits the facts alleged in Paragraph No. 46.
47. To the extent Paragraph No. 47 alleges that the DNA sample from the victim's pants could have been consistent with the DNA of "any of Plaintiff's son's relatives through his paternal genetic line," the allegation is admitted. The remaining facts alleged in Paragraph No. 47 are denied.
48. Ms. Wong denies that she falsely asserted that the DNA evidence was a match to Plaintiff's DNA. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 48, and on that basis, denies them.

- 49.-51. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 49 – 51, and on that basis, denies them.
52. Ms. Wong denies the facts alleged in Paragraph No. 52 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 52, and on that basis, denies them.
- 53.-57. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 53 – 57, and on that basis, denies them.
58. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 58, and on that basis, denies them.
- 59.-62. Ms. Wong denies the facts alleged in Paragraph Nos. 59 – 62 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 59 – 62, and on that basis, denies them.
63. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 63, and on that basis, denies them.

COUNT I

42 U.S.C. § 1983- Federal Malicious Prosecution

64. Ms. Wong incorporates each of her answers as if fully restated herein.
- 65.-71. Paragraph Nos. 65 – 71 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 65 – 71 allege facts, Ms. Wong denies them as to her own conduct and knowledge. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 65 – 71, and on that basis, denies them.
72. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 72, and on that basis, denies them.
73. Paragraph No. 73 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 73 alleges facts, Ms. Wong denies them as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 73, and on that basis, denies them.
74. Paragraph No. 74 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 74 alleges facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

- 75.-76. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 75 – 76, and on that basis, denies them.
77. Ms. Wong denies that she is responsible for conducting investigations of crimes in and around Pawtucket, Rhode Island. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 77, and on that basis, denies them.
- 78.-79. Paragraph Nos. 78 – 79 state legal conclusions to which no response is necessary. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 78 – 79, and on that basis, denies them.
- 80.-83. Paragraph Nos. 80 – 83 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 80 – 83 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.
- 84.-85. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 84 – 85, and on that basis, denies them.
- 86.-87. Paragraph Nos. 86 – 87 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 86 – 87 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

COUNT II

42 U.S.C. § 1983 - Arrest without Probable Cause

88. Ms. Wong incorporates each of her answers as if fully restated herein.
89. Ms. Wong denies the facts alleged in Paragraph No. 89 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 89, and on that basis, denies them.
- 90.-91. Paragraph Nos. 90 – 91 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 90 – 91 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.
92. Paragraph No. 92 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 92 alleges facts, Ms. Wong denies them as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 92 and on that basis, denies them.

COUNT III

42 U.S.C. § 1983 - Equal Protection

93. Ms. Wong incorporates each of her answers as if fully restated herein.
- 94.-98. Paragraph Nos. 94 – 98 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 94 – 98 allege facts, Ms. Wong denies them as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 94 – 98 and on that basis, denies them.

COUNT IV

42 U.S.C. § 1983 - Conspiracy to Deprive Constitutional Rights

99. Ms. Wong incorporates each of her answers as if fully restated herein.
- 100.-102. Paragraph Nos. 100 – 102 state legal conclusion to which no response is necessary. Ms. Wong denies the facts alleged in Paragraph Nos. 100 – 102 as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 100 – 102, and on that basis, denies them.
103. Paragraph No. 103 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 103 alleges facts, Ms. Wong denies them as to her own conduct and knowledge. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 103 and on that basis, denies them.
104. To the extent that Paragraph No. 104 alleges misconduct by Ms. Wong, the allegation is denied. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 104 and on that basis, denies them.
105. Paragraph No. 105 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 105 alleges facts, Ms. Wong denies them as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 105 and on that basis, denies them.

COUNT V

42 U.S.C. § 1983 - Failure to Intervene

106. Ms. Wong incorporates each of her answers as if fully restated herein.
- 107.-109. Paragraph Nos. 107 – 109 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 107 – 109 allege facts, Ms. Wong denies them as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations in Paragraph Nos. 107 – 109 and on that basis, denies them.

110. Paragraph No. 110 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 110 alleges misconduct by Ms. Wong, the allegation is denied. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 110 and on that basis, denies them.

111. Paragraph No. 111 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 111 alleges facts, Ms. Wong denies them as to her own conduct. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 111, and on that basis, denies them.

COUNT VI

State Law - False Arrest/Imprisonment

112. Ms. Wong incorporates each of her answers as if fully restated herein.

113. Ms. Wong denies the facts alleged in Paragraph No. 113 as to her own conduct and intentions. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 113, and on that basis, denies them.

114.-115. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph Nos. 114 – 115, and on that basis, denies them.

116.-117. Paragraph Nos. 116 – 117 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 116 – 117 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

COUNT VII

State Law- Malicious Prosecution

118. Ms. Wong incorporates each of her answers as if fully restated herein.

119. Ms. Wong denies that she commenced a criminal case against Plaintiff. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 119, and on that basis, denies them.

120. Paragraph No. 120 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 120 alleges facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth and on that basis, denies them.

121. Ms. Wong denies that she maliciously commenced a criminal case against Plaintiff. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 121, and on that basis, denies them.

122. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the facts alleged in Paragraph No. 122, and on that basis, denies them.

COUNT VIII

State Law - Intentional Infliction of Emotional Distress

123. Ms. Wong incorporates each of her answers as if fully restated herein.

124.-125. Paragraph Nos. 124 – 125 state legal conclusions to which no response is necessary. To the extent that Plaintiff’s references to “defendants” in Paragraph Nos. 124 – 125 refer in part to Ms. Wong, Ms. Wong denies that she initiated a prosecution of Plaintiff. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 124 – 125, and on that basis, denies them.

126. To the extent that paragraph No. 126 states a legal conclusion, no response is necessary. To the extent that Paragraph No. 126 alleges that Ms. Wong fabricated evidence against Plaintiff, Ms. Wong denies the allegation. Ms. Wong is without knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph 126, and on that basis, denies them.

127. Paragraph No. 127 states a legal conclusion to which no response is necessary. To the extent that Plaintiff’s reference to “defendants” in Paragraph No. 127 refers to Ms. Wong, she denies committing any of the acts or omissions complained of. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph No. 127, and on that basis, denies them.

128. Paragraph No. 128 states a legal conclusion to which no response is necessary. To the extent that Paragraph No. 128 alleges facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

129.-130. Paragraph Nos. 129 – 130 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 129 – 130 allege conduct by Ms. Wong, she denies the allegations. Ms. Wong lacks information or knowledge sufficient to form a belief as to the truth of the remaining facts alleged in Paragraph Nos. 129 – 130, and on that basis, denies them.

COUNT IX

State-Law Claim - Slander

131. Ms. Wong incorporates each of her answers as if fully restated herein.

- 132.-136. Paragraph Nos. 132 – 136 state legal conclusions to which no response is necessary. As to the facts alleged in Paragraph Nos. 132 – 136, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

COUNT X

State-Law Claim - Indemnification

137. Ms. Wong incorporates each of her answers as if fully restated herein.
- 138.-139. Paragraph Nos. 138 – 139 state legal conclusions to which no response is necessary. To the extent that Paragraph Nos. 138 – 139 allege facts, Ms. Wong lacks information or knowledge sufficient to form a belief as to their truth, and on that basis, denies them.

This unnumbered paragraph is a request for judgment to which no response is required. If a response is necessary, the allegations and/or demands are denied.

Jury Demand

This unnumbered paragraph is a request for jury trial to which no response is required.

DEFENDANT TAMARA WONG'S AFFIRMATIVE DEFENSES

Ms. Wong hereby asserts the following affirmative defenses in response to the allegations in Plaintiff's Complaint:

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted. Plaintiff's Complaint fails to allege facts sufficient to show that Plaintiff is entitled to recover any damages as against Ms. Wong.
2. Plaintiff may not maintain the claims asserted in the Complaint against Ms. Wong because any injury or damage suffered by the Plaintiff was proximately caused by the intentional or negligent conduct of a person or persons other than Ms. Wong.
3. Plaintiff may not maintain the claims asserted in the Complaint against Ms. Wong because Ms. Wong was not the legal cause of any injury or damage suffered by the Plaintiff.
4. Discretionary immunity is a bar to liability.
5. Qualified immunity is a bar to the claims against Ms. Wong.

6. Immunity pursuant to the public duty doctrine is a bar to the claims against Ms. Wong.
7. At all times material to the matters alleged in the Complaint, Ms. Wong was in the exercise of due care and had in good faith duly fulfilled any and all duties owed to Plaintiff if, in fact, any duties were owed.
8. Ms. Wong's actions were reasonable, proper and legal.
9. Ms. Wong had legal justification for all of her actions relative to Plaintiff.
10. Ms. Wong at all times acted reasonably, within the scope of her employment, in an authorized manner.
11. The acts or omissions of Ms. Wong, if any, were not committed in conscious disregard of Plaintiff's needs or rights; were not intentional and willful; and were not in violation of Federal or State law.
12. Ms. Wong lawfully performed her official duties in good faith and without actual malice, and therefore is shielded from liability pursuant to RI Gen. L. § 23-1-32.
13. Ms. Wong objects and contests to the suit being brought in her individual capacity.

Ms. Wong reserves the right to assert such other and further defenses not specifically asserted herein and identified through discovery.

WHEREFORE, Ms. Wong respectfully requests that Plaintiff's Complaint be dismissed in its entirety; that Judgment enter for Ms. Wong; that costs and attorneys' fees be awarded to Ms. Wong and such other and further relief as justice may require.

Defendant, Tamara Wong, hereby demands a trial by jury.

Respectfully Submitted,

TAMARA WONG

By Her Attorney,
PETER NEHRONA
ATTORNEY GENERAL

/s/ Michael W. Field
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CERTIFICATE OF SERVICE

I hereby certify that I filed the within document via the ECF filing system and that a copy is available for viewing and downloading. I have also caused a copy to be sent via the ECF system to the following attorneys of record on this 16th day of March, 2021.

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